

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PABLO CHAVEZ,

Plaintiff,

v.

KINGS COUNTY, et al.,

Defendant.

Case No. 1:20-cv-00471-SKO (PC)

**ORDER TO SHOW CAUSE WHY
ACTION SHOULD NOT BE DISMISSED
AS DUPLICATIVE**

21-DAY DEADLINE

Plaintiff Pablo Chavez is a pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action. He alleges that he is receiving inadequate medical care for a back injury and related pain. (*See* Doc. 1.) Plaintiff's complaint is before the Court for screening.

I. SCREENING REQUIREMENT

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a prisoner or plaintiff proceeding *in forma pauperis* has raised claims that are frivolous or malicious, fail to state a claim on which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b); 28 U.S.C. § 1915(e)(2)(B).

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II. DISCUSSION

“A complaint ‘that merely repeats pending or previously litigated claims’” is subject to dismissal under 28 U.S.C. § 1915(e). *Cato v. United States*, 70 F.3d 1103, 1105 (9th Cir. 1995) (quoting *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988)). “[A] duplicative action arising from the same series of events and alleging many of the same facts as an earlier suit” may be dismissed as frivolous or malicious under section 1915(e). *See Bailey*, 846 F.2d at 1021.

“Dismissal of the duplicative lawsuit, more so than the issuance of a stay or the enjoinder of proceedings, promotes judicial economy and the ‘comprehensive disposition of litigation.’” *Adams v. California Dep’t of Health Servs.*, 487 F.3d 684, 692 (9th Cir. 2007) (citation omitted), *overruled on other grounds by Taylor v. Sturgell*, 553 U.S. 880, 904 (2008).

To determine whether a claim is duplicative, courts use the test for claim preclusion. *Adams*, 487 F.3d at 688. “Thus, in assessing whether the second action is duplicative of the first, [courts] examine whether the causes of action and relief sought, as well as the parties or privies to the action, are the same.” *Id.* at 689 (citations omitted). “Plaintiffs generally have no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same defendant.” *Id.* at 688 (internal quotation marks and citations omitted).

In two recently filed actions in this district—*Chavez v. Kings County*, No 1:20-cv-00369-EPG (“*Chavez I*”), and *Chavez v. Kings County Jail*, No. 1:20-cv-00518-JDP (“*Chavez III*”)—Plaintiff alleges constitutional violations similar to the ones alleged in this action regarding his back injury and pain. Plaintiff raises similar claims, arising out of the same series of events, and infringing upon the same rights. Plaintiff also requests the same relief: adequate medical care and damages. The Court, therefore, finds that the actions are duplicative.

The Court notes that, while the institutional defendants in each case are essentially the same—Kings County and/or Kings County Jail—Plaintiff names different individual defendants in this action and *Chavez III*, and he names no individual defendants in *Chavez I*. It appears that Plaintiff may simply wish to amend his complaint in the earliest of these three cases, *Chavez I*, by adding defendants and related claims, then voluntarily dismiss this action and *Chavez III*.

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1 **III. ORDER**

2 For the reasons set forth above, the Court orders Plaintiff, **within 21 days**, to show cause
3 in writing why it should not recommend that this case be dismissed as duplicative. Alternatively,
4 Plaintiff may file a notice of voluntary dismissal of this case. Failure to comply with this order
5 will result in a recommendation that this action be dismissed with prejudice.

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7 IT IS SO ORDERED.

8 Dated: **April 20, 2020**

/s/ Sheila K. Overt
UNITED STATES MAGISTRATE JUDGE